

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

I.A.NO. 26 OF 2016

IN

WRIT PETITION (CIVIL) NO. 373 OF 2006

IN THE MATTER OF:

Indian Young Lawyers' Association ...Petitioner

VERSUS

State of Kerala & Ors. ...Respondents

AND IN THE MATTER OF:

Rejeev Chandrasekhar ...Applicant/Intervenor

APPLICATION FOR INTERVENTION

ADVOCATE FOR APPLICANT: MR. E.C.AGRAWALA

INDEX

Sr. No.	PARTICULARS	PAGES
1.	APPLICATION FOR INTERVENTION WITH AFFIDAVIT	1-25
2.	<u>Annexure A-1.</u> True copy of the compilation of the meaning of the term <i>mandir</i> from multiple authoritative Sanskrit dictionaries.	26-32
3.	<u>Annexure A-2.</u> True copy of the An article in connection with the instant issues at hand by Shr. Devdutt Patnaik, who is considered to be one of the leading authorities on Hinduism and mythology.	33-39
4.	<u>Annexure A-3.</u> True copy of the A copy of Guinness' webpage demonstrating the record	40-41

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

I.A. NO. _____ OF 2016

IN

WRIT PETITION (CIVIL) NO. 373 OF 2006

IN THE MATTER OF:

Indian Young Lawyers' Association

... Petitioner

Versus

State of Kerala & Ors.

... Respondents

AND IN THE MATTER OF:

Rajeev Chandrasekhar

... Applicant/Intervenor

APPLICATION FOR INTERVENTION

TO

THE HON'BLE CHIEF JUSTICE OF INDIA
AND HIS HON'BLE COMPANION JUSTICES OF
THE HON'BLE SUPREME COURT OF INDIA

THE HUMBLE APPLICATION OF THE
APPLICANT/INTERVENOR
ABOVENAMED

MOST RESPECTFULLY SHEWETH:

1. This present application (the "**Application**") for intervention in the abovementioned Writ Petition (C) No. 373/2006 (the "**Writ Petition**"), is being filed by the Applicant above named seeking permission to intervene in the instant matter and praying for the dismissal of the Writ Petition inasmuch as the prayers sought therein are violative of constitutional

principles and guaranteed protections of religious faith, belief and practice under Articles 25 and 26 of the Constitution of India.

2. It is humbly submitted that the hearings in the matter are currently ongoing before this Hon'ble Court, wherein some other parties have also been permitted to intervene. The Applicant craves leave of this Hon'ble Court to be allowed to make his submissions before this Hon'ble Court, such that this Court may have a comprehensive understanding of the issues at hand which are raised in the instant factual matrix of specific rites and religious practices at the Sabarimala Temple in Kerala.

BRIEF FACTS ABOUT THE APPLICANT

3. The Applicant herein is a citizen of India and a distinguished technocrat, entrepreneur and presently a senior member of Parliament. Since his election to the Rajya Sabha in 2006, the Applicant has raised various issues related to governance reforms, citizen participation in governance, accountability of public assets, technology and internet freedoms. The Applicant was first elected to the Rajya Sabha in May, 2006 and once again, re-elected unopposed in 2012. The Applicant has championed the cause for demanding and implementing standards for better governance and for political reforms in the manner in which the Government transacts with business in India. The Applicant serves as a member of the

Parliamentary Standing Committee of Defence; and the Parliamentary Select Committee on Insurance. The Applicant has in the past donned several roles such as member of the Prime Minister's Council on Trade and Development; Chairman of Karnataka Government's Infrastructure Task Force; Member of the Parliamentary Standing Committee on Information Technology; and member of Parliamentary Forum on Youth.

4. The Applicant holds a Bachelor's degree in Electrical Engineering from the Manipal Institute of Technology, Mangalore University, Karnataka; a Master's Degree in Computer Science from Illinois Institute of Technology, Chicago (which has also recognised him as a distinguished Alumnus); and has attended Management Programmes at Harvard University, Boston. It must be noted herein that prior to being elected to the Parliament, he founded BPL Mobile, and was one of the pioneers in developing India's first and largest greenfield telecom infrastructure. BPL Mobile had invested in and built world-class telecom infrastructure in the metropolis of Mumbai and the circles of Maharashtra, Tamil Nadu and Kerala and laid the foundation of the telecom revolution in India. The Applicant is widely recognised for his significant role in the development of the now vibrant telecom sector, and his expertise in relation to the complexities regarding the techno-economic and regulatory issues facing the sector since 1993. The Applicant presently holds no

stake in the telecom sector. Furthermore, the Applicant has also been a member of Intel's (one of the world's largest semiconductor manufacturers) design team that produced and launched the 32-bit 80486 microprocessor, more commonly known as the Intel 486 microprocessor following which the Applicant was also a part of the architecture team which conceptualised the path breaking Pentium microprocessor, which revolutionised computing technology in the world.

5. Apart from being an industry leader in the telecom domain, the Applicant was one of the youngest national Presidents of the Federation of Indian Chambers of Commerce and Industry (FICCI), India's apex industrial body. As the President of FICCI, the Applicant was responsible for initiating wide ranging reforms in multiple industry verticals. Since his election to the Upper House of the Parliament in 2006, the Applicant in his capacity as an independent Member of the House, has raised various issues of concern relating to technology, privacy and internet freedoms. The Applicant has consistently fought for transparency in policies and processes pertaining to the telecom sector and in particular, has been instrumental in ensuring transparency in the process of distribution of government largesse in the telecom sector.
6. The Applicant, as a representative of the people, has championed the cause of constitutional rights of citizens such

as freedom of speech and expression, voting rights of armed forces personnel, consumer's right to privacy of all classes of citizens, and closely working towards bringing public participation and accountability in matters of public governance. The Applicant has initiated multiple public interest actions in the High Court of Karnataka and before the Hon'ble Supreme Court of India on a wide range of issues including land - both public and government, rights of local communities to public infrastructure; right to privacy and the right to freedom of expression vis-a-vis the internet and intrusive regulation of the internet by the State. The Applicant has successfully challenged the archaic and unconstitutional Section 66A of the Information and Technology Act, 2000 before this Hon'ble Court in W.P.(C) No. 23 of 2013.

7. The Applicant has also established successful NGOs viz., *Namma Bengaluru Foundation* and *Flags of Honour Foundation*. While the former was established with the objective of making Bengaluru a model city in terms of well planned infrastructure, well laid out neighbourhood community models and people-driven governance measures; the latter was established as an effort to serve and support families of the martyrs of the Military, Paramilitary and the Police Forces of India. The Applicant's appeal before the Hon'ble Supreme Court of India in Civil Appeal No. 4025 of 2014, regarding the right of defense personnel to vote devoid

of any restrictions, led to this Hon'ble Court permitting defense personnel to exercise their right of franchise in the last general elections, without demur from the locations at which they are posted.

8. The Applicant is keenly interested in ensuring the protection and enrichment of the rich legacy and heritage of the nation and that of Hinduism whilst protecting the constitutional ethos that is mandated under our Constitution. Being a follower of Hinduism and a proud legatee of the rich heritage and culture of this country and the State of Kerala, which is also the Applicant's native state, he has also intervened himself in the ongoing *Padmanabhaswamy* temple related litigation before this Hon'ble Court vide I.A. No. 30/2014 in SLP (C) No. 11295 of 2011. The Applicant is keenly interested in ensuring that the rich heritage and legacy of this nation are conserved, indeed, in strictest adherence with constitutional standards and protections.
9. It is most respectfully submitted that the Applicant is a devout follower of the presiding deity at Sabarimala, Lord Ayyappa and had been undertaking annual pilgrimages to the said temple for the last twenty one years. It is humbly submitted that the Applicant is a reasonable, technologically aware progressive citizen of this country and is firmly supportive of the constitutional rights of every segment of the populace and stands against any form of discrimination or unconstitutional practices which impinge upon an

individual's rights, as is demonstrable from the spate of judicial interventions that he has sought in the past, to safeguard the same. Therefore, mindful of the constitutional obligations and requisites, the humble Applicant is before this Hon'ble Court to seek a guaranteed protection of religious faith and practice, which goes to the root of the cultural tradition and rituals associated with the individual Hindu deities and their concomitant rituals, in specific in the instant matter, as practiced in the Sabarimala Temple in Kerala in obeisance to Lord Ayyappa.

BRIEF BACKGROUND TO THE INSTANT MATTER

10. It is most respectfully submitted that for a true and complete appreciation of the dispute in the instant matter, it is important to highlight the nature of Hinduism as such and the special exalted place which a temple holds in the observance of this particular religion. Unlike in many other Abrahamic religions, a temple or a *mandir*, in Hinduism, is not merely a place of congregation or a prayer hall. A temple in Hindu practices is not only a place of worship where believers and followers gather to pray jointly to any particular deity, it is in fact the residence of the presiding deity and therefore in Hinduism, a temple is the abode of the gods and the presiding deity is deemed to actually reside in the sanctum sanctorum. Therefore, the entry into such temples and in the sanctum sanctorum is regulated in accordance with the likes and preferences of the presiding deity, as much

as a person's preference would apply and govern the operations of his or her residence. Consequently, regulations which are applicable to any one of them, may not be equally efficacious or applicable with respect to other temples.

11. It is most humbly submitted that the abovestated fact is amply borne out from the etymology of the Sanskrit word *mandir*, which is the liturgical language for Hinduism, and the other words which are used to denote a temple in Sanskrit or Hindi or other regional languages. It is submitted that the primary meaning of the term *mandir* is that of a house or a dwelling or a palace. A compilation of the meaning of the term *mandir* from multiple authoritative Sanskrit dictionaries is annexed herewith and marked as **ANNEXURE A-1** (Pages 26 to 32).

12. Furthermore, the cognates and synonyms of the word for a temple as has been used in ancient Sanskrit texts had been *devasthana*, *devagriha*, *devalaya*, *devabhavan*, *niketan*, *suravasa*, etc., all of which roughly translate to a house for the gods, or *mandir*. It is pertinent to note, that even in other languages in India the term for a temple is on the same lines as that in Sanskrit. For example, in Kannada it is referred to as *Devasthana* (ದೇವಸ್ಥಾನ), in Assamese and Bengali it is also known as *mandir* or *deul/doul* which is a derivative from the term *devalaya*, in Marathi it is referred to as *deval / mandir*, in Tamil it is called *kovil* (கோவில்), which means 'residence of

the god' and in Malayalam it is referred to as *kāētra* [കാളത്തേരം] / *ampala* [അമ്പലം] or *devalayam* [ദേവാലയം] which in turn indicate a similar meaning for the term as above described.

13. In furtherance to the above, it is submitted that thus, each temple in Hinduism is considered as an extension of the deity which resides therein and therefore, rites and rituals are so shaped over centuries which are considered intrinsic to the observance of faith in those particular deities. Therefore each temple in Hinduism has its specific sets of rites or rituals as has been traditionally believed to be ordained by the deity themselves in most cases. In fact, so much so, wide variances are observable even with regard to the practices which inform the rites pertaining to the same deity. For example, while mostly the Hindu pantheon is associated with vegetarianism, there are temples such as the *Kamakkhya* in Assam and *Kalighat* in Calcutta, associated with the Mother Goddess, where ritual sacrifices of animals are practiced and often the meat is served as *prasad* to the devotees. At the same time, prayers offered to the Mother Goddess at *Dakshineswar* (another Kali Temple in Calcutta) are strictly in adherence to *vaishnav* traditions and neither liquor nor non-vegetarian offerings are permitted therein. Similarly since the deity is believed to be in perpetual mystic sleep in the *Padmanabhaswamy* temple, the rites and rituals forbid the

performance of any *mantra*/hymns which is associated with waking a god up.

14. The temple, in the architecture of Hinduism, therefore, assumes a central position in connection to the specific nuances or one may refer to them as idiosyncrasies of particular deities who reside therein. Such rituals and rites are designed over centuries to cover every aspect of their residency at a temple viz., awakening rituals, bathing rituals, rituals for offering vitality in the form of food or other *samagri*, lullaby rituals etc. What is crucial to note is the fact that all these elaborate performances are directed towards the maintenance of divinity of the presiding deity being prayed to such that the devotees may be continually graced by divine blessings for their faith in them.
15. It is most respectfully submitted that religion cannot be reduced to scientific exactitude in any manner. It is in the essence of religion that it is retained as a matter of faith which the devotee bears at the core of his belief. Much like there cannot be a rational definition of God, religion follows its own subjective logic. It is this subjective faith which is protected under Part III of the Constitution of India and it is submitted that the same protection extends to the rites and traditional customary practices followed at the Sabarimala Temple in Kerala.

16. In light of the above established nature of the customs and rituals in the practice of Hinduism, it is pertinent to take note of the specific history of the Sabarimala temple and its presiding deity Lord Ayyappa. The deity is believed to be the son of *Harihara*, which is a composite form of Shiva and Vishnu. The legends around the deity states that Ayyappa was abandoned at birth and was found by the ruler of Pandalam, who brought him up under the name of Manikandan. After a life of various magical and divine occurrences/incidents, Manikandan had returned to the forest to live a life of sworn celibacy, that of a *naishtika brahmacharya*. To understand the significance of this lore, it is important to fathom the importance which Hinduism associates with *brahmacharya* or celibacy.

17. It is submitted that in the *shaivite* and the *shakta* practices of Hinduism, *brahmacharya* and celibacy has its own unique position of importance. Lord Ayyappa, having emerged from the seed of Lord Shiva has therefore retained certain characteristics of Shiva who is the supreme hermit in the Hindu pantheon. At the root of the *brahmacharyik* principles is the inherent faith in the power of continence, which is the ability to hold back bodily functions. The ancient Hindu texts including the *Manu Smriti* extols the virtues of continence/abstinence and considers it as an essential aspect of spiritual life. In *Manusmriti* it is stated that desires shall only grow by enjoyment and therefore abstinence from

sensual enjoyment or renunciation of all pleasure was the best course (Manusmriti 2:96-97). Entire schools of Hindu thought have emerged from these principles, such as those of Tantricism, Vedantic schools etc. In Tantra, retained vital force is supposed to provide superhuman powers known as *siddhi*. Those who acquired the same are referred to as *siddha*. The Hindu and certain Buddhist mythosphere also enunciate that such *siddhi* may be acquired by a *brahmacharya* by simply shunning the allure of the female form. Likewise celebrate Vedantic teachers too found role models in gods or their forms who have been *brahmacharis* such as Lord Hanuman. The spiritual significance of celibacy has also been detailed in the Yajur Veda. An article in connection with the instant issues at hand by Shr. Devdutt Patnaik, who is considered to be one of the leading authorities on Hinduism and mythology is annexed herewith and marked as **ANNEXURE A-2** (Pages 33 to 39).

18. In the given background, and the relative importance which various sects of Hindus repose in the abovementioned practices and beliefs, it becomes clear that the same are but integral parts of the faith in a particular deity, Lord Ayyappa in the instant case. It is the firm faith of the devotees that being a *Naishtika Brahmachari* the deity is vowed against any form of association with the feminine form. It is pointed out that unlike what is sought to be falsely projected by the Petitioners in the Writ Petition, the practice of not permitting

women between the age of ten and fifty years in the Sabarimala temple complex, has no basis in male chauvinism, when in fact the said practice is rooted in the very nature of the deity presiding in Sabarimala and the essential practices concomitant thereto. It is said that Sri Sankaracharya had exemplified the saying of the Lord Ayyappa himself, when he had claimed that "*brahmacharya or spotless chastity is the best of all penances; a celibate of such spotless chastity is not a human being, but a god indeed...*"

19. It is humbly submitted that the Petitioners to the Writ Petition has sought to project Hinduism as a monolithic whole, which is immutable and not susceptible to regional and deity specific divergences. However, it is the exact opposite of that which informs the practice of Hinduism and vast differences in terms of acceptable rites and traditions are observable in various parts of the country. It is inherent in the nature of the Hindu mythosphere that at times the same deity or the same god is manifested with different attributes and is prayed to by different denominations of followers. It must be clarified that it is only at Sabarimala that strict norms of *brahmacharya*/celibacy are associated with Lord Ayyappa. In other temples associated with Lord Ayyappa, viz., at Aryankavu, Achankovil and Kulathoopuzha, the same deity is worshipped in different *bhava* i.e. form, of child, married and aged respectively.

20. Therefore, it is important to note that though the god is one and the same, he is worshipped in different names and as different deities as per *moorthy bhava*. It is observable in multiple temples across the country that even the same deity is worshipped in different forms at different times. In the same vein, though the *moorthy* is one and same, *sangalpa/bhava* may differ from deity to deity. Therefore, the same necessitates the adherence to individual rites, customs and practices at each of the temples in accordance with the *bhava* in which the deity is believed to be residing therein. The misguided attempt of the Petitioners to equate all religious practices of Hinduism in a broad brush, is not only unfounded but the same in effect is destructive of the rich and diverse cultural heritage of not only the religion but also that of the country.
21. In fact, it may be brought to the attention of this Hon'ble Court that given the vastly divergent nature of Hinduism, there are various temples in India which permit only women to enter. It is crucial to fathom that such divergences are not markers of discrimination of any kind or in any manner against any particular sect or gender and are merely reflective of the typical and specific practices associated with these temples and their respective presiding deities. It is grossly inappropriate to equate these rites and practices with instances of discrimination which connote a negativity which is far from the truth. In fact the practice prevalent in the

Sabarimala temple in no way prevents any woman from worshipping the deity but merely regulates their entrance to the temple in line with the rituals associated with the particular deity himself, for reasons which as mentioned *supra* are inherent in the spiritual performances linked with Lord Ayyappa at Sabarimala.

22. It is respectfully submitted that this Hon'ble Court may take notice of the fact that in temples such as the Savitri Temple on the Ratnagiri Hills in Pushkar, Rajasthan, only women are allowed to enter and entry for men are barred. The religious beliefs pertaining to the presiding deity i.e., Savitri, is that she is the first wife of Lord Brahma and upon his second marriage, she was infuriated and casting a curse on the Lord she started residing at the Ratnagiri Hills. The temple is devoted to her and men are strictly not allowed to enter therein.
23. Likewise, the Attukal temple in Kerala is yet another example of such wide-ranging practices among the Hindus. In fact this temple is often referred to as the 'women's Sabarimala', because of the huge congregation of women alone during the annual festival of Attukal Pongal. In fact this particular temple holds the Guinness Record for being the largest congregation of women for a religious activity. A copy of Guinness' webpage demonstrating the record is annexed herewith and marked as **ANNEXURE A-3**. (Pages 40 to

41). Also, in the Kamakhya Temple at Devipuram, Visakhapatnam, Andhra Pradesh, the entry of men are barred for four or five days each month to mark privacy of the deity during the menstruation period. Besides, there are quite a few other such women-only temples in India which either completely bar or restrict the entrance of men, such as the Bhagati Maa temple in Kanyakumari, Bhagwathi temple in Chengannur, Kerala, Sri Path temple in Chandauli, Uttar Pradesh etc. What is noteworthy is the fact that none of these are instances of reverse discrimination against men but are merely rituals associated with the deity presiding in these temples and are therefore in no way violative of any constitutional protections.

24. It is pertinent to note that even under the present circumstances there is no absolute ban on the entry of women which has been imposed with regard to the Sabarimala Temple. It is only women of menstrual age i.e., between the ages of ten and fifty who are prohibited from entering the temple in light of the unique nature of the deity presiding therein and his vows of celibacy, which find root in the spiritual traditions of the Hinduism and in specific in the customs associated with Lord Ayyappa at Sabarimala.
25. It is humbly submitted that it is not only religious principles or fundamental beliefs which are sought to be protected under Article 25 and 26 of the Constitution of India. It has

been time and again affirmed by this Hon'ble Court that the protection of Articles 25 and 26 also extend to religious rites and practices. This Hon'ble Court in *The Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Shirur Mutt*, AIR 1954 SC 282, has held,

"The guarantee under our Constitution not only protects the freedom of religious opinion but it protects also acts done in pursuance of a religion and this is made clear by the use of the expression "practice of religion" in article 25. Latham C.J. of the High Court of Australia while dealing with the provision of section 116 of the Australian Constitution which inter alia forbids the Commonwealth to prohibit the "free exercise of any religion" made the following weighty observations (Vide *Adelaide Company v. The Commonwealth* 67 C.L.R. 116, 127.) :

"It is sometimes suggested in discussions on the subject of freedom of religion that, though the civil Government should not interfere with religious opinions, it nevertheless may deal as it pleases with any acts which are done in pursuance of religious belief without infringing the principle of freedom of religion. It appears to me to be difficult to maintain this distinction as relevant to the interpretation of section 116. The section refers in express terms to the exercise of religion, and therefore it is intended to protect from the operation of any Commonwealth laws acts which are done in the exercise of religion. Thus the section goes far beyond protecting liberty of

opinion. It protects also acts done in pursuance of religious belief as part of religion."

... these observations apply fully to the protection of religion as guaranteed by the Indian Constitution. Restrictions by the State upon free exercise of religion are permitted both under articles 25 and 26 on grounds of public order, morality and health. Clause (2)(a) of article 25 reserves the right of the State to regulate or restrict any economic, financial, political and other secular activities which may be associated with religious practice and there is a further right given to the State by sub-clause (b) under which the State can legislate for social welfare and reform even though by so doing it might interfere with religious practices. The learned Attorney-General lays stress upon clause (2)(a) of the article and his contention is that all secular activities, which may be associated with religion but do not really constitute an essential part of it, are amenable to State regulation.

xxx xxx xxx

... The contention formulated in such broad terms cannot, we think, be supported. In the first place, what constitutes the essential part of a religion is primarily to be ascertained with reference to the doctrines of that religion itself. If the tenets of any religious sect of the Hindus prescribe that offerings of food should be given to the idol at particular hours of the day, that periodical

ceremonies should be performed in a certain way at certain periods of the year or that there should be daily recital of sacred texts or oblations to the sacred fire, all these would be regarded as parts of religion and the mere fact that they involve expenditure of money or employment of priests and servants or the use of marketable commodities would not make them secular activities partaking of a commercial or economic character; all of them are religious practices and should be regarded as matters of religion within the meaning of article 26(b). What article 25(2)(a) contemplates is not regulation by the State of religious practices as such, the freedom of which is guaranteed by the Constitution except when they run counter to public order, health and morality, but regulation of activities which are economic, commercial or political in their character though they are associated with religious practices."

26. Therefore, it is crucial to note that what is excepted from the purview of the protection under Article 25 are those matters which deal with economic, commercial or political activities and surely not those activities which are core to the religious faith and belief in the practice of a religion.
27. A three-Judge Bench of this Hon'ble Court has reaffirmed the above view taken by the Constitution Bench in the Shirur Mutt Case, cited above in *Sri Adi Visheshwara of Kashi*

Vishwanath Temple, Varanasi & Ors v. State of Uttar Pradesh and Ors., (1997) 4 SCC 606. The Hon'ble Court has held therein,

"... The protection of Articles 25 and 26 of the Constitution is not limited to matters of doctrine. They extend also to acts done in furtherance of religion and, therefore, they contain a guarantee for rituals and observances, ceremonies and modes of worship which are integral parts of the religion."

28. In light of the above, it is most respectfully submitted, that the spiritual organization of the devotees of Lord Ayyappa at Sabarimala are strictly structured around the practices and established customs of the particular temple in question and its presiding deity. In accordance with the *Shastras*, a devotee is expected to subject itself to strict rules of abstinence and penance for 41 days prior to a pilgrimage to the Sabarimala temple. Therefore, the spiritual belief in the common faith and the common spiritual organization of the devotees of Lord Ayyappa at Sabarimala entitles them to the constitutional protection under Article 26 of the Constitution of India to manage their own religious affairs in strict adherence to established customs and rites of passage/entry into the shrine. The celibacy of the deity and its preference or customary indict against his own close association with the feminine form is central to the belief system brought into question in the present proceedings, and therefore deserves

constitutional protection under Articles 25 and 26 of the Constitution.

29. The law laid down by this Hon'ble Court in *Ismail Faruqui v. Union of India & Ors.*, AIR 1995 SC 605 is also instructive insofar as this Hon'ble Court has held that "*the right to worship is not at any and every place, so long as it can be practised effectively.*" However, the Court followed this up by noting "*...unless the right to worship at a particular place is itself an integral part of that right.*" In the present circumstances, it is impossible to hold that any right to specifically pray at the Sabarimala Temple is discernible which is fundamentally violative of the essence of the deity presiding at Sabarimala.

30. It is most respectfully submitted that the Petitioners' argument based on constitutional morality as being a perambulatory restriction on the exercise of a right under either Article 25 or 26 of the Constitution is also unfounded. It is humbly submitted that to extract a principle of constitutional morality in the present context from the text of Article 14 or 15(1) of the Constitution is specious. It is most respectfully submitted that Article 15(2) is limited to securing non-discriminatory access to "*shops, public restaurants, hotels, and places of public entertainment.*" Conspicuously, religious institutions are excluded. In fact, Article 25(2)(b), which deals with the throwing open of Hindu religious

institutions to all sections of Hindus, is framed as *permitting* - but not *obligating* - the State to make laws for temple entry. This would seem to indicate that constitutional morality does not mandate gender equality in with respect to access to religious institutions.

31. Furthermore, it is most respectfully submitted that the Constitutional morality heavily leans in favour of protecting cultural autonomy, as is discernible from a bare reading of the provisions of Article 26(b) being informed by the principles underlying Article 29 of the Constitution of India. Therefore, it is unfathomable that the scope and ambit of the interpretation of Article 25 can be increased so far as to obliterate or override the principles of cultural autonomy zealously protected under the Constitution of India.
32. For the reasons, abovementioned, the Applicant seeks to intervene in the Writ Petition and wish to assist this Hon'ble Court in determining the scope and ambit of religious freedoms guaranteed under the Constitution of India.
33. The present application is *bona fide* and is being filed in public interest and propriety. The Applicant has not filed any similar application before this Hon'ble Court or any other court of law of the country.

23

PRAYER

It is therefore, humbly prayed that this Hon'ble Court may graciously be pleased to:

- i. Allow this Application and permit the Applicant to intervene in the aforementioned Writ Petition being W.P.(C).No. 373 of 2006;
- ii. Allow the application to file detailed pleadings supporting the stand taken herein, as and when it may be so required to directed by this Hon'ble Court; and
- iii. Pass such other order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of this case.

AND FOR THIS ACT OF KINDNESS THE APPLICANT, AS IN DUTY BOUND, SHALL EVER PRAY.

FILED BY

(E.C.AGRAWALA)
ADVOCATE FOR THE APPLICANT

DATED: 2/5/16

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

I.A NO. OF 2016

IN

WRIT PETITION NO. 373 OF 2006

IN THE MATTER OF:

Indian Young Lawyer's Association

...Petitioner

VERSUS

State of Kerala & Ors.

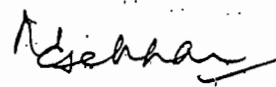
...Respondents

AFFIDAVIT

I, Rajeev Chandrasekhar, son of Air Cdre. M.K. Chandrasekhar (Retd.), aged about 49 years, resident of 211, North Avenue, New Delhi 110011, do hereby solemnly affirm and state as under:

1. That I am Intervenor in the abovementioned Petition and such, I am well conversant with the facts and circumstances of the present case and I am fully competent to depose by way of the present Affidavit.
2. I say that I have read and understood the facts stated in the accompanying applications and say that the facts stated therein are true to my knowledge.

3. I say, that the averment of facts stated hereinabove are true to my knowledge and no part of it is false and nothing material has been concealed therefrom.
4. That the annexures are true copies of their respective originals.


DEPONENT

VERIFICATION:

I, the abovenamed Deponent, do hereby verify that the contents of the above Affidavit are true and correct to my knowledge and belief, no part of it is false and nothing material has been concealed therefrom.

Verified at Delhi, on this the ____ day of April, 2016.


DEPONENT

मन्दावती

- मन्दावती f. a woman's name.
 मन्दि & मन्दिर a. delightful, charming;
 cheerful, gay, inspirited.
 मन्दिर n. dwelling, house, castle, palace,
 temple.
 मन्दिष्ठ (superl.) most delightful.
 मन्दी कृ weaken, diminish, slacken; w. भू P.
 मन्दी a. exhilarated, inspirited.
 मन्दिरा f. horse-stable; *पाक m. groom.
 मन्दिता a. having little energy or zeal;
 not very enthusiastic.
 मन्दिदरी f. N. of a wife of Rāvaṇa.
 मन्दितासुख a. having little desire to (प्रति).
 मन्दि a. pleasant, charming, sweet, esp. well
 sounding, pleasant to the ear, deep, hollow
 (voice or sounds i.g.); n. adv.
 मन्दिभिर् a. pleasant-voiced.
 मन्दिभ्यु a. sounding merrily or sweetly.
 मन्दिता m. thinker, devout or pious man.
 मन्दिमित्तम् adv. for my sake.
 मन्दिम m. love or the god of love (lit. the
 shaker or agitator).
 मन्दिमेषु m. love-letter.
 मन्दिमानस m. the fire of love.
 मन्दिन n. thought, devotion, prayer, praise,
 hymn.
 मन्दिन a. sprung from (lit. consisting of) me.
 मन्दि a. thinking one's self-, appearing as,
 passing for (—°).
 मन्दि f. du. & pl. the muscles of the neck,
 neck i.g.
 मन्दि m. mood i.e. temper of mind, esp. high
 spirit, ardour, zeal; passion, wrath, anger
 at (loc. or acc. w. प्रति), fury, rage (often
 personif.); distress, grief, sorrow; abl.
 मन्दिर्तु adv.
 मन्दिमन्त a. spirited, zealous, wrathful, angry.
 मन्दिमी a. destroying (hostile) fury or io fury.
 मन्दिमोच m. abandoning anger, reconciliation.
 मन्दिनर n. (m.) the age of a Manu (now the
 seventh & seven others are to follow).
 मन्दिन a. kindled by men.
 मन्दि a. my, mine.
 मन्दि (repeated & w. ज्ञे or चिद्) now—
 then—at another time.
 मन्दिता f., मन्दिता n. selfishness, egoism.
- ममाय, *यते to envy (acc.).
 ममवस, f. ममवसी moribund.
 मम & *क m. a man's name.
 ममट m. N. of a writer.
 मम, f. ई made or consisting of (only —°);
 m. the Former, N. of an Asura.
 मम m. horse, f. ममी mare.
 ममन or ममन् n. N. of a metre.
 ममन् n. refreshment, cheer, delight.
 ममन्तर a. causing delight.
 मम m. a Kimpuruṣa or some other man-
 like animal.
 मम m. peg; ray of light; p. *वन्त + &
 *खिन्त.
 मम m., ई f. peacock or hen; ubstr. *ता + f.,
 *वन्त + n.
 ममपत्रि a. adorned with peacock's feathers
 (arrow).
 ममभवा a. refreshing, gladdening; m. = ममस.
 ममभु, *भु (f. *भु), or *भुष a. = proc. a.
 मम m. N. of a Brahman.
 मम m. dying, death.
 मम m. epidemic, plague.
 ममकत n. emerald.
 ममकतमय (f. ई) made of emerald.
 मम n. = मर; *ण कृ to die.
 ममदया f. the hour of death.
 ममभीषक a. fearing death.
 ममन्त & *मन्त a. ending in death.
 ममन्त a. mortal.
 ममन्त m. a kind of swimming bird; *an
 elephant.*
 ममन्त m. the pepper shrub; n. grain of
 pepper.
 ममन्त m. & n. = prec.; m. also = ममन्त m.
 ममन्तूर s. ground pepper.*
 ममन्त f. mote in the air, beam of light
 (also ममन्ती); m. N. of a Prajapati, the
 father of Kaṇvapa.
 ममन्तिका f. mirage.
 ममन्ति m. the sun (lit. = seq. a.)
 ममन्तिमन्त a. having rays; m. the sun.
 ममन्तिमन्ति a. wreathed with rays; m. =
 prec. m.
 ममन्ति a. touching, groping.
 मम m. waste, desert (often pl.); mountain.



Vacaspertyaim

Preferences

मा.प्र.

Corrections Help

माझी

[L=37688] [p=4736]

मन्दिर । न० मन्दातेऽत्र मदि-किरच् । १ गृहे २
पुरे च अमरः
तस्य द्विलिङ्गत्वमित्येके । ३ समुद्रे मेदि० ४
जानुपशब्दगे
च पु० हेमच० ।

मन्त्रशैल
मन्थान
मन्त्र
मन्त्रा
मन्त्रद
मन्त्रता
मन्त्र
मन्त्राकिनी
मन्त्राक्रान्ता
मन्त्राक्ष
मन्त्राशि
मन्त्रार
मन्त्रिर
मन्त्ररा
मन्त्रादरी
मन्त्रोष्णा
मन्त्र
मन्त्रार्थ
मन्त्रभालय
मन्त्रा
मन्त्रु
मन्त्रन्तर
मन्त्र
मन्त्र
मन्मता



Shabda-Sagara Sanskrit-English Dictionary

[Preferences](#)
[मन्दिर](#)

[Corrections](#)
[Help](#)

▲
 मन्दाक्रान्ता
 मन्दाक्ष
 मन्दाग्नि
 मन्दात्मन्
 मन्दादर
 मन्दानिल
 मन्दायमान
 मन्दार
 मन्दासु
 मन्दास्य
 मन्दिकुक्कुर
 मन्दिमन्
 मन्दिर
 मन्दिरपशु
 मन्दीभव
 मन्दीभूत
 मन्दुरज
 मन्दुरा
 मन्दोच्छ
 मन्दोदरी
 मन्दोदरीश
 मन्दोदरीसुत
 मन्दोष्ण

मन्दिर

मन्दिर

[L=30595] [p=

551-b]

nf. (-र-रा) A house. n. (-रं) 1. A town.

2. A temple. m. (-रः) 1.

The sea. 2. The back of the knee, the ham. 3. One of the Gan-

dharbas. f. (-रा) A stable. E. मदि to sleep, &c. Unádi aff. किरच् ।



मन्दिर

[Corrections](#) [Help](#)

मन्दिर

mandira, I. m. 1. The sea.

2. The back of the knee. II. f. *râ*,
A

2; Kathâs. 26, 283 (f.): IV. n. 1.
A

A pleasure-house, Čhaurap̄. 23.
Jala [Page0688-a+ 40]



Monier-Williams Sanskrit-English Dictionary, 1872

Preferences

मन्दिर

Corrections Help

▲
मन्दन
मन्दर
मन्दसान
मन्दाक
मन्दाकिनी
मन्दाक्रान्ता
मन्दार
मन्दारक
मन्दारव
मन्दारिन्
मन्दिकुकुर
मन्दिन्
मन्दिर
मन्दुरा
मन्दीकृ
मन्दीर
मन्दु
मन्दह
मन्द्र
मन्थ
मन्थात्
मन्मथ
मन्मथिन

मन्दिर

मन्दिर [L=36453] *mandira, am, n.* (according to
[p= 0746-c] some
also *ā, f.* and *as, m.*; said to be fr.
rt. *mand*), a
habitation, dwelling, house,
palace; a temple, pagoda;
an apartment; a town; a camp;
any abode or
dwelling, (sometimes at the end
of an adj. comp.,
e. g. *kshīrābdhi-mandira, as, ā,*
am, dwelling in
the ocean of milk); (*ā, f.* a stable,
= *mandurā,*



Wilson Sanskrit-English Dictionary

Preferences

मन्दिर



Corrections Help

▲
मन्दहास्य
मन्दाक
मन्दाकिनी
मन्दाक्रान्ता
मन्दाक्ष
मन्दात्मन्
मन्दादर
मन्दानिल
मन्दायमान
मन्दार
मन्दास्य
मन्दिकुकुर
मन्दिर
मन्दिरपशु
मन्दीभव
मन्दीभूत
मन्दुरज
मन्दुरा
मन्दोच्छ
मन्दोदरी
मन्दोदरीश
मन्दोदरीसुत
मन्दोष्ण

मन्दिर

[L=29573] [p=643]

मन्दिर nf. (-रं-रा) A house. n. (-रं)

1 A town.

2 A temple. m. (-रः)

1 The sea.

2 The back of the knee, the ham.

3 One of the *Gandharbas*. f. (-रा) A stable.

E. मदि to sleep, &c. Un'ādi aff.

किरच्।



Yates Sanskrit-English Dictionary

[Preferences](#)
[मन्दिर](#)

[Corrections](#) [Help](#)

मन्दस्मित
 मन्दहास्य
 मन्दाक
 मन्दाकिनी
 मन्दाक्ष
 मन्दात्मन्
 मन्दादर
 मन्दानिल
 मन्दायमान
 मन्दार
 मन्दास्य
 मन्दिकुकुर
 मन्दिर
 मन्दिरपशु
 मन्दीभव
 मन्दीभूत
 मन्दुरज
 मन्दुरा
 मन्दोच्छ
 मन्दोदरी
 मन्दोदरीश
 मन्दोदरीसुत
 मन्दोष्ण

मन्दिर

मन्दिर (रं-रा) [L=29089] [p= 576-b]

1. *n. f.* A house. *m.*

The sea; the ham. *f.* A stable

n. A town; a temple.



Are Indian courts and activists denying the gods their gender and sexuality?

This de-sexing of gods and goddesses makes it difficult to explain the exclusion of women from the presence of celibate gods.

Apr 18, 2016 · 10:30 am

Devdutt Pattanaik

Why are women not allowed into certain temples?

The easy and lazy answer: Because a section of Hindu men who also control temples consider menstruating women as dirty and polluted.

The complex answer: Because the gods enshrined in these temples are seen in local folklore as celibate whose power or siddhi comes from staying away from all things feminine. Typically, these are forms associated with Shiva, who is considered the supreme hermit in Hindu mythology. These shrines include Shani (in Shingnapur, Maharashtra), Ayyappa (in Sabarimala, Kerala), Baba Balaknath (in Harimpur, Himachal) and Kartikeya (Pehowa, Haryana).

Isn't the complex answer simply an elaborate argument to justify gender privilege? Shouldn't everyone have access to God?

Phrases and concepts such as gender privilege and equality are powerful levers to twist traditional lore, transform all believers into patriarchal oppressors, put everyone on the defensive and turn activists into saviours. But these saviours, activists and judges essentially assume a singular definition of God – one that is Abrahamic. And therein lies the problem.

The Abrahamic God

The Abrahamic God found in the mythologies of Judaism, Christianity and Islam is decidedly masculine, which is why he is addressed using masculine pronouns, has only men as his prophets as per Islam, and sends a son to save the world as per Christianity, not a daughter. He is the Father in Heaven, whose child is born of a virgin, as he looks down upon sex – even destroying Sodom and Gomorrah for their excessive sexual appetite. In this worldview, God has a gender, prefers one gender to another, but is distanced from sexuality.

In the Mormon version of Christianity, God has many wives, has lots of sex, and has children. And though the church's official doctrine doesn't say that Jesus Christ was married, its "members are free to believe as they wish" on the matter. For those dismissive of Mormonism, also known as the Church of Jesus Christ of Latter-day Saints, note that the church – founded in the US in 1830 – is one of the most rapidly growing churches in that country.

The conventional Abrahamic understanding of God, influenced by Greek beliefs in omniscient Zeus, informs the global discourse. Increasingly, this understanding of God is being stripped of all gender and sexuality, being seen in abstract terms as an idea, or energy, or force. Even in modern Sufi movements, when the relationship between deity and devotee was traditionally seen in terms of lover and beloved, there seems an obsessive need to insist that the relationship is pure, which is supposed to mean non-sexual. Implicit in this belief is that sex is dirty. Menstrual blood is considered dirty too, and nudity is frowned upon. In fact, people are convinced that only "primitive pagan cultures" have gods with a defined gender – and sexuality. In so-called higher cultures, there is only spirituality.

Guess where Hindus are anxious to locate modern Hinduism?

God in Hinduism

God in Hinduism is both without form (nirguna), and with form (saguna). When it comes to form, God could be male, female or androgynous, displaying every kind of sexuality including asexuality and queer sexuality.

So there are temples where only women are allowed (Savitri Temple in Rajasthan near Pushkar, or Shri Path in Uttar Pradesh's Chandauli district), and rituals that only women may perform (Attukal Pongal in Kerala, Thiruvananthapuram). There are temples where men, not women, have to bare their chest on entry (Mookambika in South Karnataka), and where men have to dress as women and appear before the Goddess (Kottankulangara Temple at Chavara, near Kollam, Kerala).

Once there were temples where the gods were married to women (devadasis of Tanjore, maharis of Puri) until this was outlawed, where goddesses only accepted eunuchs as her priests (Bahucharaji, Gujarat), where a god willingly served as husband to male-to-female transgenders (Koovagam, Tamil Nadu).

Then there are temples where the goddess menstruates (Kamakhya, Assam) and gods are paraded cross-dressed as women (Brahmotsavam in Tirupati, Andhra Pradesh).

Which description of God is the correct description – the Abrahamic, the Mormon, the Hindu? Can we have a globally approved definition of God from the United Nations, which has trouble agreeing on the definition of terrorism?

Can there be a rational definition of God?

Well, no.

Faith by definition is not supposed to be scientific or rational. It follows its own subjective logic, its own architecture, populated by virgin births, heavens and hells, sin, salvation and soul. For secular atheists who might be chuckling, note that even ideas such as equality and human rights are appealing ideas, dreams that are forcibly imposed by a so-called civilised democratic society on so-called primitive tribes. In

fact, today science, democracy, secularism and nationalism function very much like religions – all look at alternate views of the world as heresy.

The Buddhist mythosphere

To appreciate religious practices, we have to function within that religion's mythic framework. One way to understand the location of gender and sexuality in the Hindu mythosphere is to appreciate the location of gender and sexuality in the Buddhist mythosphere, where there is no concept of God.

In the first phase of Buddhism, Buddha was represented as a symbol (footprint, umbrellas, lotus). In the second phase, Buddha was represented as a beautiful but asexual man. In the third phase, Buddha, or rather Bodhisatva, became androgynous and even feminine. In the fourth phase, Buddha started being seen with a goddess, Tara, or even copulating with her (Yab-Yum images). This happened over a thousand years, and captures the change in Buddhist thought as it moved from Theravada Buddhism through Mahayana Buddhism to Vajrayana Buddhism.

In early Buddhist texts such as Vinaya Pitaka, women were seen as the greatest threat to the path of dhamma. Later, Buddha was seen as a saviour figure, displaying feminine qualities like compassion (karuna). Finally, belief in the power of semen crept in, a belief that would later be qualified as Tantra. In Tantra, retained semen is supposed to provide superhuman powers known as siddhi. Those who acquired it were called siddha. Early Buddhism believed this power could be attained by someone with a male body who simply shunned the allure of the female body. Later Buddhism believed this process could be accelerated by copulating with women, getting aroused but not discharging semen. This is said to cause "reverse movement of semen" or *urdhva-retas*.

But when we talk of Buddhism today, we talk of it being either spiritual or revolutionary, but shun all conversations related to gender and sexuality and beliefs in

semen-power. Why? Is it Christian guilt at work, native shame, or just secular embarrassment?

Tantra is a common tributary to Buddhism and Hinduism. Similar beliefs of gender, sexuality, and semen movement exist in various schools of Hindu thought. Tantra acted as a counterforce to asceticism of Vedanta. If celibate Vedanta teachers found a role model in the brahmachari or celibate Hanuman, who refuses to marry so that he can serve Sita and Ram, the Tantrik tradition insists on the character of Radha, who though married to another man, dances and sings with Krishna in the forest at night, and demands he satisfy her. It is not a relationship where she is victim of the masculine gaze, as we discover in Gita Govinda, but one where she is the power, the Shakti, whose demands enliven the divinity of God.

Victorian Gaze

But all these ideas around the gender and sexuality of gods and goddesses were suppressed in the 19th century as Hindu reformers tried to purify and purge Hinduism, win the approval of the Victorian gaze. God and Goddess became Father and Mother, without any sexuality, so they could not possibly have desire for male or female devotees. Temple images of voluptuous goddesses and virile gods were covered with sandal paste, hymns describing their beautiful bodies and virility and fertility were studiously ignored. Celibacy was projected as sacrifice for the greater good of humanity (as in the case of Jesuit missionaries), rather than a ritual practice to gain semen-power. In fact, when American academicians drew attention to some of these Tantrik ideas in their books, Hindu activists rose in rage and declared them as perverts, asked for bans and burnt their books.

Ironically, this de-sexing of gods and goddesses, made it difficult to explain the exclusion of women from the presence of celibate gods. If there is nothing sexual about Hindu gods, then why the problem with women? Explanations became pathetic — such as “menstrual blood is dirty”. No one dared speak of “semen power”.

It is not that Hindus are not aware of these ideas – it is just the elephant in the room.

We are worried about what will people say. That we still value celibacy and semen-power, that we do consider brahmacharya as the fuel to tejas (holy radiance) and siddhi (spiritual power) is the reason why our godmen make sure their celibate status is an integral part of their brand architecture. The godwomen also insist they never did or no longer menstruate.

Courts as arbiters.

Perhaps we could argue then that women demanding entry into the shrine of celibate gods is the goddess pushing back: demanding she be acknowledged in times when celibate saffron-robed bearded men are taking centre stage as self-styled leaders of Hinduism. We can declare that this is Hinduism reframing itself as it has several times in its long history.

The question is: How far will we go? Will the courts now allow women's akharas and transgender akharas to thrive alongside all-male akharas? Can we imagine a day when the shahi-snaan or royal bath at the Kumbh mela will be done by holy menstruating women, and not remain exclusive to celibate ash-smearred Naga sadhus? Or are these issues too volatile for the courts?

Transgression is always valorous. The act of women entering the shrine of gods who have traditionally shunned women as per traditional lore is seen as a triumph, an end to that patriarchal tradition of seeing women as impure. But what will be the impact on the deity's celibacy? Will the presiding deity be affected by the presence of women? Will their siddhi, which drew devotees to them, wane over time? Or are we to assume that in the 21st century, all gods are gender-neutral, stripped of all sexuality? Do we want to wipe out Tantrik tributaries of Hinduism, or simply deny them and walk the path of sanitised New Age Buddhist spirituality?

Who can answer these questions on the gender and sexuality of our gods and our religion? I guess, to unravel the mysteries of Hinduism we have to turn to the honourable judges of India and their understanding of the holy Constitution. No one else is allowed.

Largest gathering of women



Who

ATTUKAL BHAGAVATHY TEMPLE TRUST

What

2500000 people

Where

When

10 March 2009

The largest annual gathering of women is achieved by 2.5 million women in an event organised by ATTUKAL BHAGAVATHY TEMPLE TRUST in Kerala, India, on 10 March 2009. Attukal Pongala festival is a tradition of Hinduism.

Guinness World Records

© Guinness World Records 2016. All rights reserved.

Registered in England No: 541295

Registered Office: 17 Hanover Square, London W1S 1HU United Kingdom

We use cookies on this website

We use cookies on this website. By using this site, you agree that we may store and access

41
Largest gathering of women

4/29/2016

cookies on your device.

Continue